

## Occupational Disease Evaluations

The Workers' Compensation Claims Assistance Bureau of the ERD is responsible for the occupational disease (OD) evaluation process. The process is used to determine whether a claimant's condition is a result of the employment and to determine compensability of claims under the OD statutes when an insurer has not accepted liability for the claim.

The process requires the claimant to attend a medical evaluation directed by the department. The medical evaluator submits a report of findings to the department. A copy of the report is then sent to the claimant and the insurer. Upon receipt of the report, if a dispute exists over initial compensability as an OD, it is a dispute that after mediation is subject to the jurisdiction of the Workers' Compensation Court.

### Occupational Disease Cases By Plan Type<sup>1</sup> and Fiscal Year of Evaluation Request

Plan Types	FY00	FY01	FY02	FY03	FY04
Plan 1	47	40	29	30	25
Plan 2	86	82	63	64	28
Plan 3	58	45	81	96	71
<b>Total</b>	<b>191</b>	<b>167</b>	<b>173</b>	<b>190</b>	<b>124</b>

**Notes:**

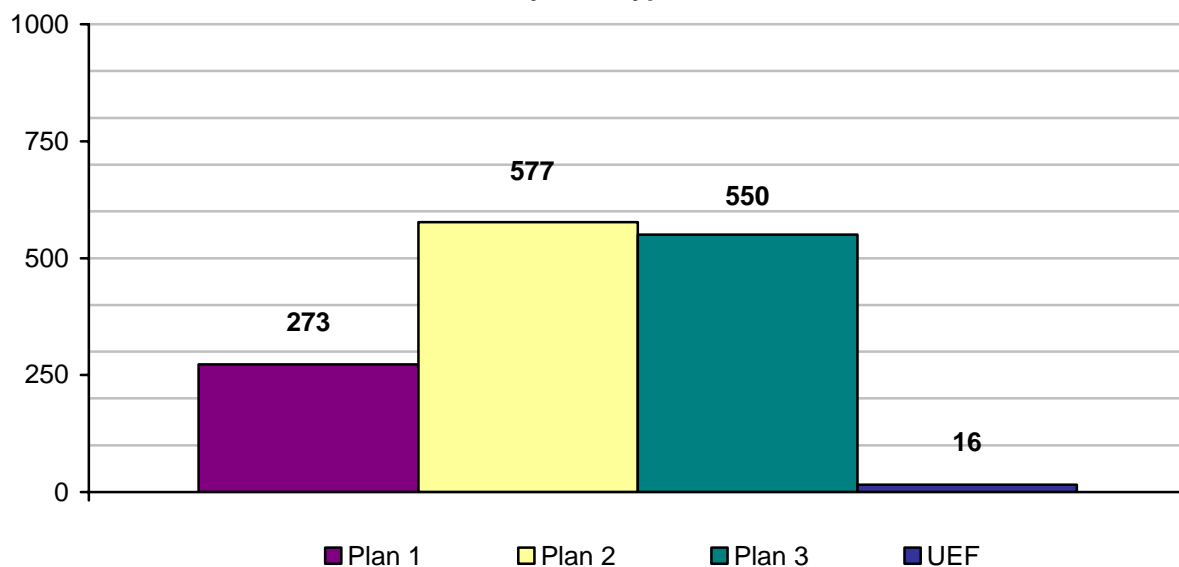
<sup>1</sup>Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance and Plan 3 – Montana State Fund



## Mediation

The Workers' Compensation Mediation Unit of the ERD provides a mandatory process for resolving disputes dealing with benefits for both occupational injury and occupational disease claims. The mediation process is confidential, non-binding and informal. The mediator facilitates the exchange of information between the parties and assists with solutions aimed at resolving the dispute. Conferences are held either in Helena, in person or by telephone conference. Often more than one conference is held in order to resolve the disputes on a claim. In FY04, the Mediation Unit received and processed 1,303 petitions, which involved 1,416 claims. A petition is a request for mediation and may include multiple claims.

**Claims in Mediation - FY04**  
**By Plan Type**



**Claims in Mediation**  
**By Plan Type<sup>1</sup> and Fiscal Year of Receipt**

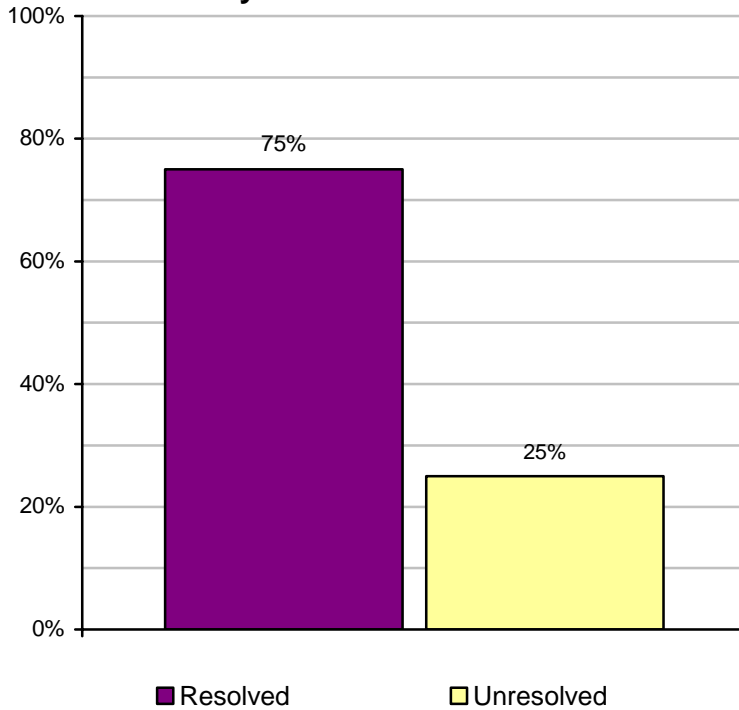
Plan Types	FY00		FY01		FY02		FY03		FY04	
	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Plan 1	200	15%	227	17%	249	18%	244	18%	272	19%
Plan 2	603	46%	648	49%	680	49%	623	46%	578	41%
Plan 3	470	36%	428	32%	443	32%	452	33%	550	39%
UEF	27	2%	29	2%	26	2%	36	3%	16	1%
<b>Totals<sup>2</sup></b>	<b>1,300</b>	<b>100%</b>	<b>1,332</b>	<b>100%</b>	<b>1,398</b>	<b>100%</b>	<b>1,355</b>	<b>100%</b>	<b>1,416</b>	<b>100%</b>

**Notes:**

<sup>1</sup>Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance, Plan 3 – Montana State Fund and UEF – Uninsured Employers Fund

<sup>2</sup>Total count represents number of claims not number of petitions

### Percent of Petitions Resolved by Mediation - FY04



- Over the past five years Mediation has had an average resolution rate of 79%.
- From the date of the petition receipt to issuing a written recommendation, the average completion time for mediation was 39 days in FY04.

### Mediation Petitions<sup>1</sup> By Fiscal Year of Receipt

Petitions Received	FY00		FY01		FY02		FY03		FY04	
	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Pending <sup>2</sup>	3	1%	2	1%	5	1%	9	1%	117	9%
Closed	1,165	99%	1,193	99%	1,255	99%	1,223	99%	1,186	91%
<b>Total Petitions Received</b>	<b>1,168</b>	<b>100%</b>	<b>1,195</b>	<b>100%</b>	<b>1,260</b>	<b>100%</b>	<b>1,232</b>	<b>100%</b>	<b>1,303</b>	<b>100%</b>
Resolved	942	81%	964	81%	969	77%	967	79%	894	75%
Unresolved	223	19%	229	19%	286	23%	256	21%	292	25%
<b>Total Petitions Closed</b>	<b>1,165</b>	<b>100%</b>	<b>1,193</b>	<b>100%</b>	<b>1,255</b>	<b>100%</b>	<b>1,223</b>	<b>100%</b>	<b>1,186</b>	<b>100%</b>

**Notes:**

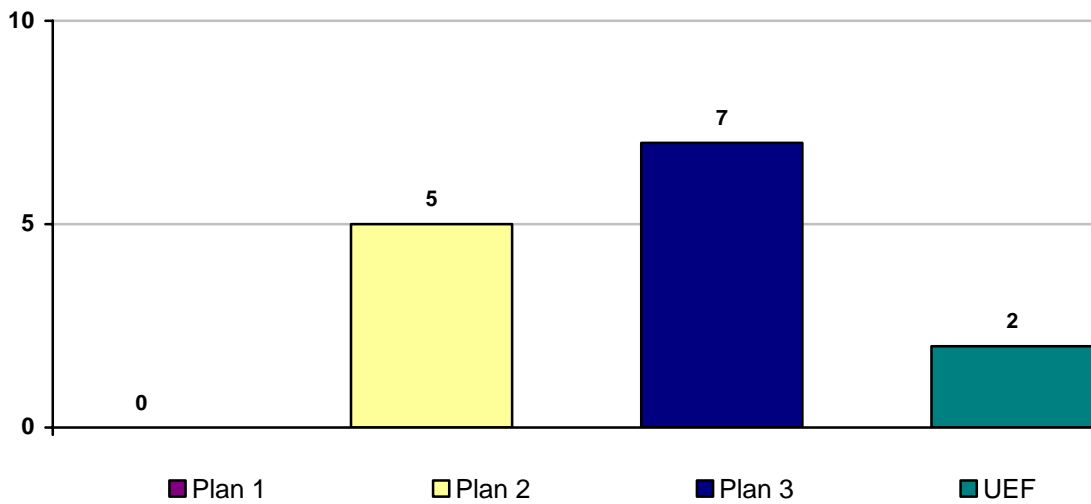
<sup>1</sup>A single petition may include multiple claims and/or multiple insurers.

<sup>2</sup>Eventual outcome of pending petitions will affect percent resolved.

## Contested Case Hearings

The DLI Hearings Bureau holds contested case hearings. Disputes heard at contested case hearings include appeals from orders and determinations issued by ERD, assessments of penalties for uninsured employers, medical disputes between providers and insurers when payments to the claimant are not an issue and regulation of attorney fees. The numbers of cases being heard by the DLI Hearings Bureau has been declining since FY98, when the Legislature transferred responsibility for hearing occupational disease claims to the Workers' Compensation Court. In FY04, the Hearings Bureau received 19 new requests for contested case hearings.

**Petitions Received by the Hearings Bureau- FY04**  
By Plan Type<sup>1</sup>



**Petitions Received by the Hearings Bureau**  
By Plan Type<sup>1</sup> and Fiscal Year

Plan Type	FY00		FY01		FY02		FY03		FY04	
	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Plan 1	5	16%	0	0%	0	0%	1	5%	0	0%
Plan 2	14	45%	12	63%	7	44%	6	32%	5	36%
Plan 3	6	19%	1	5%	2	13%	3	16%	7	50%
UEF	6	19%	6	32%	6	38%	9	47%	2	14%
PEO	0	0%	0	0%	1	6%	0	0%	0	0%
<b>Total</b>	<b>31</b>	<b>100%</b>	<b>19</b>	<b>100%</b>	<b>16</b>	<b>100%</b>	<b>19</b>	<b>100%</b>	<b>14</b>	<b>100%</b>

**Notes:**

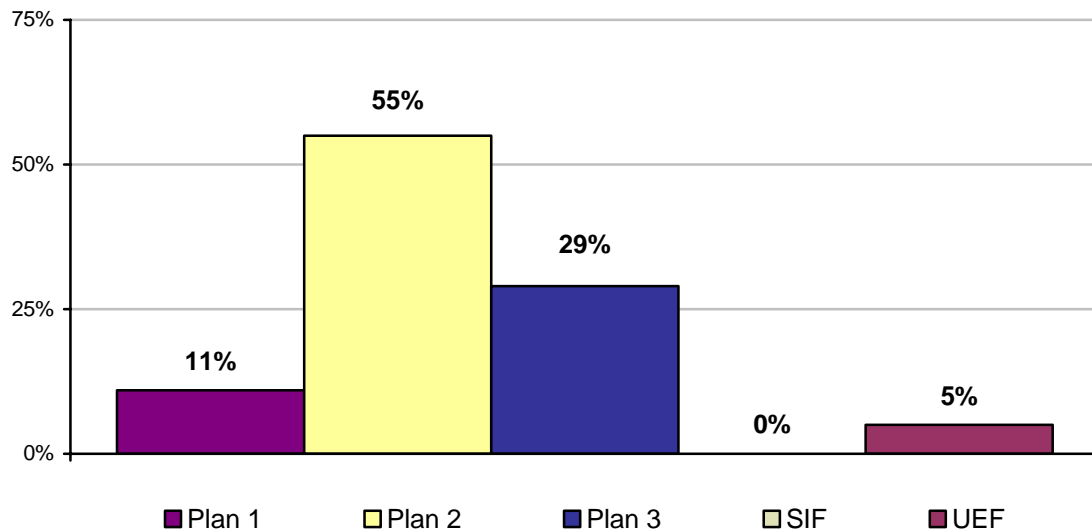
<sup>1</sup>Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance, Plan 3 – Montana State Fund, UEF – Uninsured Employers Fund and PEO – Professional Employer Organization.

## Workers' Compensation Court

The Workers' Compensation Court (WCC) resolves disputes between insurers or employers and workers disabled as a result of occupational injuries or diseases. The Court has original jurisdiction over benefit issues arising under the Workers' Compensation Act and the Occupational Disease Act. For an injury occurring after July 01, 1987, disputes must first be mediated. The Court's exclusive jurisdiction also extends to disputes involving independent contractor exemptions under both the Workers' Compensation and Unemployment Insurance Acts, enforcement of DLI subpoenas, civil penalties for violations of workers' compensation provisions and the two-year return to work preference specified in section 39-71-317(2), MCA.

Court statistics were taken from the Workers' Compensation Court Website: <http://wcc.dli.mt.gov>

**Percent of Petitions Received by the WCC - FY04**  
By Plan Type<sup>1</sup>



**Petitions Received by the WCC**  
By Plan Type<sup>1</sup> and Fiscal Year

Plan Type	FY00		FY01		FY02		FY03		FY04	
	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Plan 1	23	9%	14	6%	29	12%	34	14%	28	11%
Plan 2	118	45%	144	60%	140	56%	139	59%	144	55%
Plan 3	86	33%	65	27%	62	25%	53	22%	75	29%
SIF	0	0	1	0%	1	0%	1	0%	0	0%
UEF	34	13%	15	6%	16	6%	9	4%	14	5%
<b>Total by Plan<sup>2</sup></b>	<b>261</b>	<b>100%</b>	<b>239</b>	<b>99%<sup>3</sup></b>	<b>248</b>	<b>100%</b>	<b>236</b>	<b>100%</b>	<b>261</b>	<b>100%</b>
<b>Total</b>	<b>255</b>	<b>100%</b>	<b>228</b>	<b>99%<sup>3</sup></b>	<b>243</b>	<b>100%</b>	<b>229</b>	<b>100%</b>	<b>261</b>	<b>100%</b>

**Notes:**

<sup>1</sup>Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance, Plan 3 – Montana State Fund, SIF – Subsequent Injury Fund and UEF – Uninsured Employers Fund

<sup>2</sup>Petitions may involve more than one plan type.

<sup>3</sup>Columns may not sum 100% due to rounding.

### Decisions by the WCC By Fiscal Year

<b>Decisions</b>	<b>FY00</b>	<b>FY01</b>	<b>FY02</b>	<b>FY03</b>	<b>FY04</b>
Telephone Conference Resulting in Disposition	0	0	3	0	0
Bench Rulings without Written Decisions	1	3	2	0	1
Decisions	66	90	103	145	158
Orders on Appeal	8	0	4	0	0
Substantive Orders	36	64	26	32	30
Attorney Fee Orders	1	7	0	5	7
Orders on Cost	5	4	14	15	4
Disposed of by Telephonic Conference	0	0	2	0	0
<b>Subtotals</b>	<b>117</b>	<b>167</b>	<b>152</b>	<b>197</b>	<b>200</b>
Petitions Dismissed by Agreement	175	136	118	72	88
<b>Totals</b>	<b>292</b>	<b>303</b>	<b>270</b>	<b>269</b>	<b>288</b>

### Full and Final Compromise Settlements by the WCC By Plan Type<sup>1</sup> and Fiscal Year

<b>Plan Type</b>	<b>FY00</b>	<b>FY01</b>	<b>FY02</b>	<b>FY03</b>	<b>FY04</b>
Plan 1 Self-Insured	11	5	5	5	7
Plan 2 Private Insurers	18	23	16	12	13
Plan 3 State Compensation Ins. Fund	47	41	24	24	17
Plan 4 Subsequent Injury Fund	0	0	0	0	0
Plan 5 Uninsured Employers Fund	0	0	0	0	0
<b>Total</b>	<b>76</b>	<b>69</b>	<b>45</b>	<b>41</b>	<b>37</b>

**Note:**

<sup>1</sup>Plan types: Plan 1 – Self-insured Employers, Plan 2 – Private Insurance, Plan 3 – Montana State Fund, SIF – Subsequent Injury Fund and UEF – Uninsured Employers Fund

